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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,924	02/20/2004	Joshua Friedman	D FRD 104	7259
7590		11/01/2005	EXAMINER	
Eugene Lieberstein		MACPHERSON, MEOGHAN E		
2151 Long Ridge Road		ART UNIT		
Stamford, CT 06904		PAPER NUMBER		

3732

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/783,924	Applicant(s) FRIEDMAN, JOSHUA	
	Examiner Meoghan E. MacPherson	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because it does not identify the citizenship of each inventor.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "11," "13," and "16" have been used to designate the electrical contacts. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The use of the trademarks COOLPOLY D5104 and COOLPOLY E5101 have been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

4. The disclosure is objected to because of the following informalities: grammatical mistakes. Such errors can be found on page 6, paragraph 2 where "heating elements" should read ---heating element-- in two instances. Also, on page 7, paragraph 2 a period for punctuation is missing at the end of the sentence that begins "The electrically conductive plastic..."

Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yobel et al (US Patent App. Pub. 2003/0165793).

Yobel et al discloses a compule 32 comprising a cylindrical body made from a thermally conductive plastic with an orifice at one end through which the dental composite material is extruded as well as a head having means 31 at the opposite end of the compule to facilitate the extrusion of the dental material using a dispenser (page 4, para. [0040]-[0041]; page 5, sec. 23; see Figures 1-4). Yobel et al also discloses the compule comprising a heating element 60 composed of an electrically conductive material contiguous with or defining the body of the compule, as well as a pair of electrical contacts 50 connected to the heating element forming a

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series circuit through the heating element when the contacts are connected an external power supply 13 (page 3, para. [0031]-[0032]; page 3, para. [0035]; see Figures 1-4). Yobel et al further discloses the heating element arranged in a spiral geometry, surrounding the body of the compule (page 3, para [0040]; see Figure 4).

Regarding claim 1, Yobel et al does not disclose the thermally conductive plastic comprising the compule body having a thermal conductivity in the range of 1.0 w/mk and 500w/mk. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a thermally conductive plastic whose working range included 1.0 w/mk and 500w/mk, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

7. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yobel et al in view of Amarasekera et al (US Patent No. 6,689,835). Yobel et al discloses the claimed invention that shows the limitations as described above; however, Yobel et al does not disclose the heating element formed of an electrically conductive plastic, or an electrically conductive plastic which is also thermally conductive.

Amarasekera et al teaches a conductive plastic material composition which is both electrically and thermally conductive (col. 1, lines 38-52; col. 2, lines 21-24; col. 8, lines 20-27). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the compule of Yobel et al to incorporate the teachings of Amarasekera et al to create a thermally and electrically conductive heating element that is lightweight, provides cost-effective manufacturing, and allows for more design flexibility.

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8. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yobel et al in view of Newman'088 (US Patent No. 4,704,088). Yobel et al discloses the claimed invention that shows the limitations as described above; however, Yobel et al does not disclose an insulating plastic material or this insulating plastic material extending lengthwise of the compule body.

Newman'088 teaches an insulation layer 39 substantially coextensive in length (extending lengthwise) with the compule along the external surface of the compule body. This insulation layer is comprised of PARYLENE, an insulating plastic material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the compule of Yobel et al to incorporate the teachings of Newman'088 to protect the patient from possible shock or heat trauma.

Conclusion

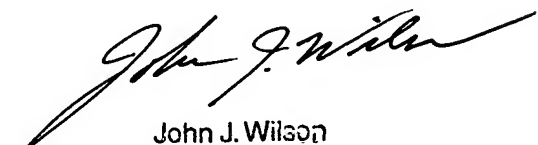
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meoghan E. MacPherson whose telephone number is (571)-272-5565. The examiner can normally be reached on Mon-Fri 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571)-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Meaghan E. MacPherson


John J. Wilson
Primary Examiner